

Before the
**Library of Congress
Copyright Office
Notice of Inquiry
In re Exemption to Prohibition on
Circumvention of Copyright
Protection Systems for Access
Control Technologies**

Reply Comments of:

Michael Ditmore

In support of Comment #3 by The Wireless Alliance & Robert Pinkerton, represented by Jennifer Granick, Stanford Center for Internet and Society Cyberlaw Clinic.

Class of Works Identification:

I respectfully submit the following reply comments in support of the exemption requested in Comment #3 by The Wireless Alliance & Robert Pinkerton which was submitted in connection with the Copyright Offices' October 3, 2005 Notice of Inquiry. The commenting parties proposed an exemption from the Section 1202(a)(1) prohibition on the circumvention of technological measures that control access to a copyrighted work for the following class of works:

Computer programs that operate wireless telecommunications handsets. (Mobile firmware)

Summary of Argument:

After Cingular acquired AT&T, I was forced to throw away my old phone (which cost \$500) and purchase a new handset (an additional \$500 purchase) so I could use Cingular's GSM service. This expense could have been avoided if I could have unlocked my phone and used it on the new Cingular network.

Factual Support:

I'm the CEO of a technology company in Santa Barbara and a 1970 Graduate from the Stanford Graduate School of Business.

I was also a long-time AT&T Wireless customer and purchased a Palm Tungsten W handset from AT&T just under two years ago for the hefty price of \$500. Shortly after I bought my new cellular PDA/handset, Cingular bought AT&T Wireless announced that all AT&T customers would need to switch over to GSM, which was Cingular's network standard.

I called Cingular to ask them to convert my handset over to the GSM standard from the different standard AT&T was using. In order to do this, they would simply have to unlock my phone to allow it to operate on the new network. Much to my consternation, Cingular informed me that they would not unlock the phone. AT&T gave me the same story.

I was forced to spend yet another \$500 to purchase a new phone that would function on the Cingular network. It seems ridiculous that customers would not be allowed to unlock their phones to avoid having to purchase an entirely new handset when they switch service providers.

For this reason, I support the Copyright Office granting an exemption for phone unlocking.